

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL****FOR: HEALTH CARE FINANCING ADMINISTRATION**

1. TRANSMITTAL NUMBER:

0 1 — 0 1 3

2. STATE:

North Dakota

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL
SECURITY ACT (MEDICAID)TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

July 1, 2001

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

42 CFR part 447 subpart C

7. FEDERAL BUDGET IMPACT:

a. FFY 2001 \$ 2.3 million

b. FFY 2002 \$ 10.3 million

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19-D Sub-section 1 page 6
Attachment 4.19-D Sub-section 1 page 7
Attachment 4.19-D Sub-section 1 page 28
Attachment 4.19-D Sub-section 1 page 46
Attachment 4.19-D Sub-section 1 page 47
Attachment 4.19-D Sub-section 1 page 48
Attachment 4.19-D Sub-section 1 page 58a9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):Attachment 4.19-D Sub-section 1 page 6
Attachment 4.19-D Sub-section 1 page 7
Attachment 4.19-D Sub-section 1 page 28
Attachment 4.19-D Sub-section 1 page 46
Attachment 4.19-D Sub-section 1 page 47
Attachment 4.19-D Sub-section 1 page 48
New

10. SUBJECT OF AMENDMENT:

Nursing facility rates

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:

David J. Zentner

14. TITLE:

Director, Medical Services

15. DATE SUBMITTED:

August 22, 2001

16. RETURN TO:

David J. Zentner
Director, Medical Services
ND Department of Human Services
600 E Boulevard Ave Dept 325
Bismarck ND 58505**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

August 28, 2001

18. DATE APPROVED:

November 26, 2001

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

July 1, 2001

20. SIGNATURE OF REGIONAL OFFICIAL:

Spencer K. Ericson

21. TYPED NAME:

Spencer K. Ericson

22. TITLE:

Acting Associate Regional Administrator

23. REMARKS:

POSTMARK: August 22, 2001

- c. No later than October first of each year, each facility will provide to the department:
- (1) A cost report for the report year ended June 30 on forms prescribed by the department.
 - (2) Except for state-owned facilities, a copy of an audited report of the facility's financial records from an independent certified public accountant which must include an audited statement of the rates charged to private pay residents. The examination must be conducted in accordance with generally accepted auditing standards. For provider organizations that operate more than one nursing facility, a consolidated audit report can be provided. The information must be reconciled to each facility's cost report.
 - (3) A complete statement of fees and charges for private-pay residents for the report year.
 - (4) A statement of ownership for the facility, including the name, address, and proportion of ownership of each owner.
 - (a) If a privately held or closely held corporation or partnership has an ownership interest in the facility, the facility shall report the name, address, and proportion of ownership of all owners of the corporation or partnership who have an ownership interest of five percent or more, except that any owner whose compensation or portion of compensation is claimed in the facility's cost report must be identified regardless of the proportion of ownership interest.
 - (b) If a publicly held corporation has an ownership interest of 15 percent or more in the facility, the facility shall report the name, address, and proportion of ownership of all owners of the publicly held corporation who have an ownership interest of ten percent or more.
 - (5) Copies of leases, purchase agreements, appraisals, financing arrangements, and other documents related to the lease or purchase of the nursing facility, or a certification that the content of any such document remains unchanged since the most recent statement given pursuant to this subsection.
 - (6) Supplemental information reconciling the costs on the financial statements with costs on the cost report.

- (7) The following information is to be provided upon request by the department:
- (a) Access to certified public accountant's audit workpapers which support the audited financial statements.
 - (b) Copies of leases, purchase agreements, and other documents related to the acquisition of equipment, goods, and services which are claimed as allowable costs.
 - (c) Audited financial statements for any organization, excluding individual nursing facilities of a chain organization owned in whole or in part by an individual or entity which has an ownership interest in the facility together with supplemental information which reconcile costs on the financial statements to costs for the report year.
 - (d) Audited financial statements for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility together with supplemental information which reconcile costs on the financial statements to costs for the report year.
- d. In the event a facility fails to file the required cost report on or before the due date, the department may reduce the current payment rate to eighty percent of the rate in effect on October first. Reinstatement of the rate will occur on the first of the month beginning after receipt of the required information, but is not retroactive.
- e. The facility shall make all adjustments, allocations, and projections necessary to arrive at allowable costs. The department may reject any cost report when the information which has been filed is incomplete or inaccurate. If a cost report is rejected, the department may reduce the current payment rate to eighty percent of its most recently established rate until the information is completely and accurately filed.
- f. Costs reported must include total costs and be adjusted to allowable costs. Adjustments required by the Provider Audit Unit, to attain allowable cost, though not meeting the Medicaid state agency or the state Medicaid investigative group criteria of fraud or abuse on their initial identification, could, if repeated on future cost filings, be considered as possible fraud and abuse. The Provider Audit Unit will forward all such items identified to the appropriate Medicaid investigative group.

Section 13 - Offsets to Costs

1. Several items of income will be considered as offsets against various costs as recorded in the books of the facility. Any income, whether in cash or in any other form, which is received by the facility, with the exception of the established rate, income from payments made under the Job Training Partnership Act, bed reduction incentive payments and income from charges for private rooms or special services will be offset up to the total of the appropriate actual allowable costs. If actual costs are not identifiable, income will be offset up to the total of costs as identified below. If costs relating to income are reported in more than one cost category, the income must be offset in the ratio of the costs in each of the cost categories. These sources of income include, but are not limited to:
 - a. "Activities income". Income from the activities department and the gift shop will be offset to activity costs.
 - b. "Vending income". Income from the sale of beverages, candy, or other items will be offset to the cost of the vending items or, if the cost is not identified, all vending income will be offset to the cost category where vending costs are recorded.
 - c. "Dietary income". Amounts received from or on behalf of employees, guests, or other nonresidents for meals or snacks will be offset to dietary and food costs.
 - d. "Drugs or supplies income". Amounts received from employees, doctors, or others not admitted as residents will be offset to nursing supplies. Medicare Part B income for drugs and supplies must be offset to nursing supplies.
 - e. "Insurance recoveries income". Any amount received from insurance for a loss incurred will be offset against the appropriate cost category regardless of when the cost was incurred if the facility did not adjust the basis for depreciable assets.
 - f. "Interest or investment income". Interest received on investments, except amounts earned on funded depreciation or from earnings on gifts where the identity remains intact, will be offset to interest expense.
 - g. "Laundry income". All amounts received for services rendered to or on behalf of employees, doctors, or others will be offset to laundry costs.
 - h. "Private duty nurse income". Income received for the providing of a private duty nurse will be offset to nursing salaries.

Section 24 - Adjustment Factors for Direct Care, Other Direct Care and Indirect Care Costs

1. An appropriate composite economic change index may be used for purposes of adjusting historical costs for direct care, other direct care, and indirect care and for purposes of adjusting limitations of direct care costs, other direct care costs, and indirect care costs, but may not be used to adjust property costs.
2. For purposes of this section:
 - a. "Appropriate composite economic change index" means one-half of the increase, if any, in the consumer price index, plus one-half of the increase, if any, in the Data Resources, Incorporated, North Dakota specific nursing home input price index.
 - b. The "consumer price index increase" means the percentage (rounded to the nearest one-tenth of one percent) by which the consumer price index for urban wage earners and clerical workers (CPI-W), all items, United States city average for the quarter ending September thirtieth of the year immediately preceding the rate year (as prepared by the United States Department of Labor) exceeds that index for the quarter ending September thirtieth of the second year preceding the rate year.
 - c. "Data Resources, Incorporated, North Dakota specific nursing home input price index" means:
 - (1) For purposes of determining the adjustment factor applicable to historical costs for direct care, other direct care, and indirect care, the composite index for the eighteen-month period beginning immediately after the report year ends; and
 - (2) For purposes of determining the adjustment factor applicable to the limit rates for direct care, other direct care, and indirect care, the composite index for the period beginning January 1, 2002, and ending at the end of the rate year.

Section 25 - Rate Limits and Incentives

1. Limits - All facilities except those nongeriatric facilities for individuals with physical disabilities or units within a nursing facility providing geropsychiatric services described in Section 5 - Exclusions must be used to establish a limit rate for the Direct Care, Other Direct Care, and Indirect Care cost categories. The base year is the report year ended June 30, 1999. Base year costs may not be adjusted in any manner or for any reason not provided for in this section.
 - a. The limit rate for each of the cost categories will be established as follows:
 - (1) Historical costs for the report year ended June 30, 1999, as adjusted must be used to establish rates for all facilities in the Direct Care, Other Direct Care and Indirect Care cost categories. The rates as established must be ranked from low to high for each cost category.
 - (2) For rate years beginning on or after January 1, 2002, the limit rate for each cost category is calculated based on:
 - (a) For the Direct Care cost category, \$76.76 multiplied by the adjustment factor determined in paragraph c(2) of Section 24-Adjustment Factors for Direct Care, Other Direct Care and Indirect Care Costs;
 - (b) For the Other Direct Care cost category, \$13.33 multiplied by the adjustment factor determined in paragraph c(2) of Section 24-Adjustment Factors for Direct Care, Other Direct Care and Indirect Care Costs; and
 - (c) For the Indirect Care cost category, \$32.00 multiplied by the adjustment factor determined in paragraph c(2) of Section 24-Adjustment Factors for Direct Care, Other Direct Care and Indirect Care Costs;
 - (3) For rate years beginning on or after January 1, 2003, the limit rate for each cost category is calculated based on:
 - (a) For the direct care cost category, \$83.32 multiplied by the adjustment factor determined in paragraph c(2) of Section 24-Adjustment Factors for Direct Care, Other Direct Care and Indirect Care Costs;
 - (b) For the Other Direct Care cost category, \$14.15 multiplied by the adjustment factor determined in paragraph c(2) of Section 24-Adjustment Factors for Direct Care, Other Direct Care and Indirect Care Costs; and
 - (c) For the Indirect Care cost category, \$34.72 multiplied by the adjustment factor determined in paragraph c(2) of Section 24-Adjustment Factors for Direct Care, Other Direct Care and Indirect Care Costs.

- b. A facility which has an actual rate that exceeds the limit rate for a cost category will receive the limit rate.
2. The department will review, on an ongoing basis, aggregate payments to nursing facilities to determine that payments do not exceed an amount that can reasonably be estimated would have been paid for those services under Medicare payment principles. If aggregate payments to nursing facilities exceed estimated payments under Medicare, the department will make adjustments to rates to establish the upper limitations so that aggregate payments do not exceed an amount that can be estimated would have been paid under Medicare payment principles.
3. The department shall accumulate and analyze statistics on costs incurred by the nursing facilities. These statistics may be used to establish reasonable ceiling limitations taking into consideration relevant factors including resident needs, nursing hours necessary to meet resident needs, size of the nursing facility and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing facility. Such limits, if established by the department, may not be less, in the aggregate, than the 60th percentile of total actual allowable cost per diem for each group of nursing facilities established under NDCC Chapter 50-24.4 based on cost reports of allowable operating costs in the previous reporting year. These limitations may be established on the basis of cost of comparable facilities and services and may be applied as ceilings on the overall costs of providing services or on specific areas of operations. It shall be the option of the department to implement the ceilings so mentioned at any time based upon the information available and under guidelines required within the regulation of Title XIX.
4. For a facility with an actual rate below the limit rate for Indirect Care costs, an incentive amount equal to 70% times the difference between the actual rate, exclusive of inflation indices, and the limit rate, in effect at the end of the year immediately preceding the rate year, up to a maximum of \$2.60, or the difference between the actual rate, inclusive of the adjustment factor and the limit rate for indirect care costs, whichever is less will be included as part of the Indirect Care cost rate.
5. A facility will receive an operating margin of 3% based on the lesser of the actual Direct Care and Other Direct Care rates, exclusive of inflation indices, or the limit rate, in effect at the end of the year immediately preceding the rate year. The 3% operating margin will then be added to the rate for the Direct Care and Other Direct Care cost categories.
6. The actual rate for indirect care costs and property costs must be the lesser of the rate established using:
- a. Actual census for the report year; or
- b. Ninety percent of licensed bed capacity available for occupancy as of June thirtieth of the report year:
- (1) Multiplied times three hundred sixty-five; and

5. Adjustment for salary and benefit enhancements

- a. The department may provide for a salary and benefit enhancement rate. A facility must submit a plan detailing enhancements for employee salary and benefits at least forty-five days prior to the implementation of the enhancement by the facility.
- b. The salary and benefit enhancement rate shall be added to the rate otherwise established under this chapter on or after July 1, 2001. The enhancement rate may not be effective before the implementation date of the enhancement.
- c. The salary and benefit enhancement rate may not exceed ten dollars and ten cents for the rate year beginning January 1, 2001. For the rate year beginning January 1, 2002 the salary and benefit enhancement rate established for the prior year shall be increased by one-half the adjustment factor set forth in paragraph 2.c.(1) of Section 24-Adjustment Factors for Direct Care, Other Direct Care and Indirect Care Costs.
- d. Any additional funds provided by the salary and benefit enhancement rate must be used to provide the enhancements outlined in the facility's plan and are subject to audit. If the department determines that the funds were not used for the intended purpose, an adjustment must be made in accordance with Section 26 – Rate Adjustments.

TN No. 01-013
Supersedes
TN No. New

Approval Date 11/26/01 Effective Date 07/01/01